



THE CITY OF KEY WEST PLANNING  
BOARD

Staff Report

To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Ben Gagnon, Planner I

Meeting Date: January 18<sup>th</sup>, 2024

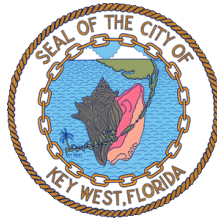
Agenda Item: Transfer of a Transient Unit License – 610 Duval St (RE: 00012600-000000) – A request to transfer two (2) transient units and licenses from a sender site located at 1004 Eaton St (RE: 00005290-000000) in the Historic Medium Density Residential (HMDR) Zoning District, to a receiver site located at 610 Duval St (RE: 00012600-000000) in the Historic Residential Commercial Core – 1 (HRCC-1) Zoning District, pursuant to chapter 122 (Zoning), Article V (Supplementary District Regulations), Division 6 (Transient Units) and Chapter 122 (Zoning), Article IV (Districts), Division 7 (Historic Residential Commercial Core Districts) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: A request to transfer two transient units and licenses from an 8 unit, 4,020 square-foot parcel located at 1004 Eaton St, to a 4,475 square foot parcel with an existing mixed-use two-story structure, with plans to construct an additional stand alone unit behind the primary structure.

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Property Owners: Sender Site: Key Endeavors LLC – Purchase Date: 4/30/2021  
Receiver Site: Key Endeavors LLC – Purchase Date: 5/30/2023

Applicant: Owen Trepanier & Associates Inc



### Sender Site – 1004 Eaton Street:

- The sender site is located at 1004 Eaton Street in the HMDR zoning district, where transient use is not permitted. The sender site is immediately adjacent to a restaurant to the west, and a non-transient residential dwelling to the east.
- The sender site holds 8 transient units and licenses. It has operated, until recently, as an 8-unit guesthouse.
- In June of 2023, the City received a building permit application to remodel the sender site from a guesthouse into a single-family home with a guest cottage, both proposed to be rented transiently.
- The Planning Department provided a memorandum recommending that the property owner not sell or transfer licenses from 1004 Eaton Street to result in future rental activity that would be non-compliant with respect to the Code’s definition of “family” per Section 86-9, which is defined as a not-for-profit housekeeping unit for a group of related persons, or up to four unrelated persons.



- As part of this application, the sender site applicant proposes one five-bedroom unit and one two-bedroom unit. The applicant does not propose to utilize the remaining transient unit and license at this time.
- An additional three transient units and licenses are proposed to be transferred to additional receiver sites under two separate applications.



### Existing vs. Proposed Uses of Sender Site Units

Transient Unit	Existing No. of Rooms	Proposed No. of Rooms	Receiver Site
1	1	4	921 Windsor Ln
2	1	4	610 Duval St
3	1	4	610 Duval St
4	2	6	1004 Eaton St
5	1	3	1004 Eaton St
6	1	0	1004 Eaton St
7	1	3	1128-1130 Duval St
8	1	3	1128-1130 Duval St
<b>Total:</b>	<b>8</b>	<b>27</b>	

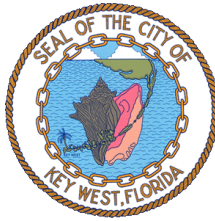
The table above illustrates a 300% increase in the total number of rooms associated with the transfer of the five transient units and licenses from 1004 Eaton Street.

It includes the three transient transfer applications on the January 2023 Planning Board agenda. The sender site proposes to maintain, but not utilize, an additional transient unit and license. The future transfer of that unit may result in additional/expanded transient use beyond what is currently proposed.

The number of rooms is calculated in accordance with Sections 122-1338(5) and (6), which stipulate that:

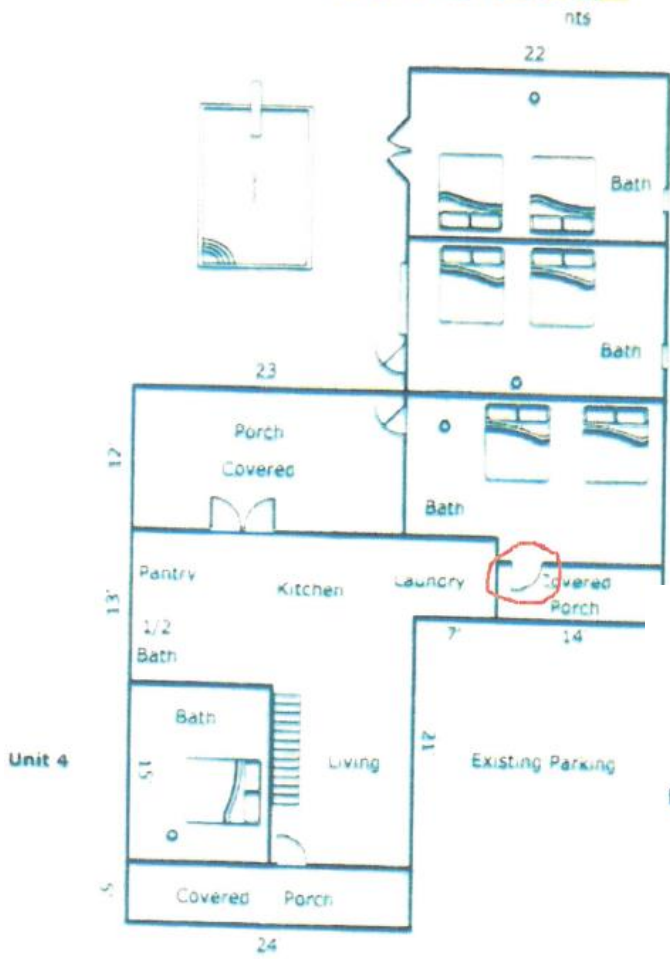
- The receiver site may not include more than two rooms excluding bathrooms and porches unless special circumstances exist.
- The sender site may not remodel or combine remaining transient units to increase the existing number of rooms.

The applicant proposes to reduce the number of active transient units and licenses from eight to two, while retaining the same number of rooms.

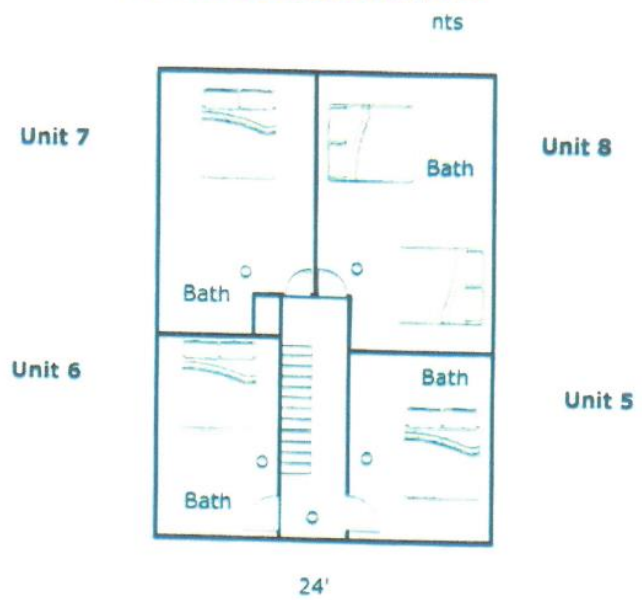


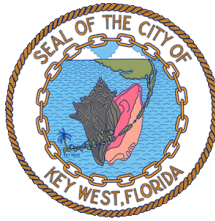
Sender site: Existing floor plans:

**EXISTING FIRST FLOOR PLAN**

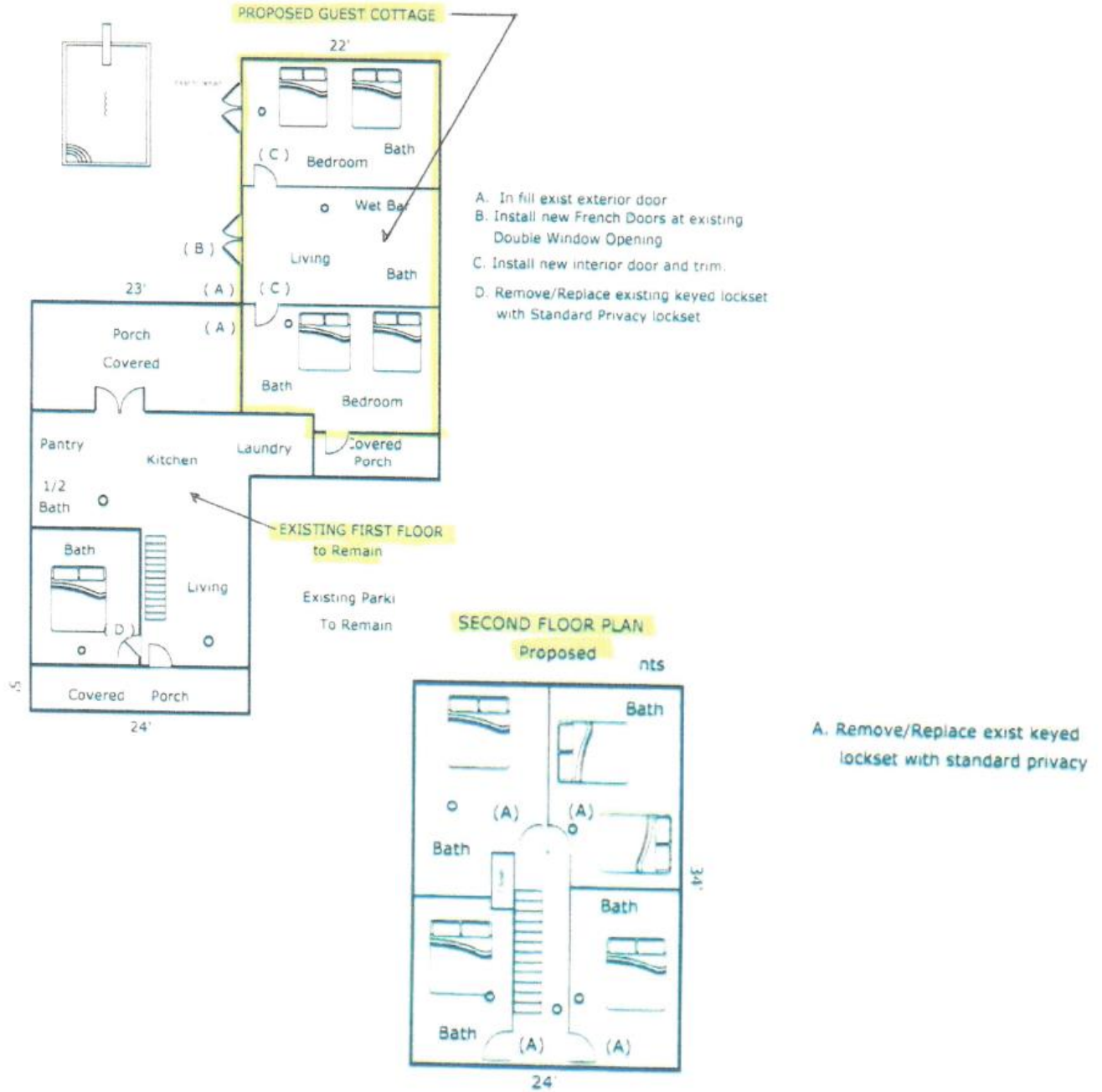


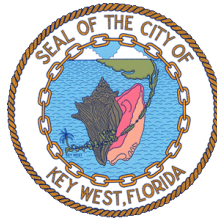
**EXISTING SECOND FLOOR PLAN**





Sender site: Proposed floor plans:





### Receiver Site – 610 Duval Street



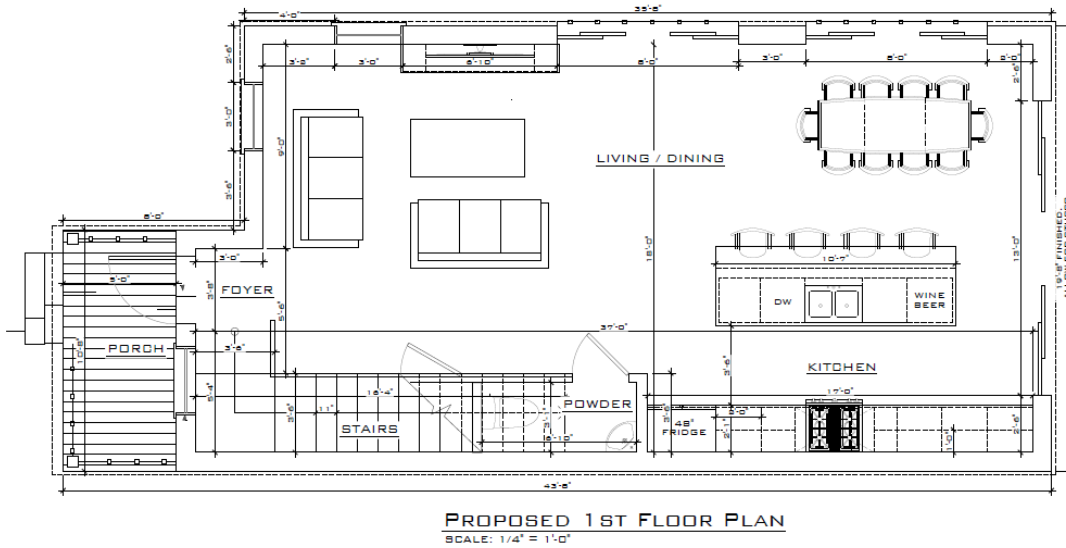
- The receiver site is a two-story building with retail on the first floor and a recognized dwelling unit on the second floor.
- It is located in the Historic Neighborhood Commercial Core – 1 zoning district, where transient use is permitted.
- The applicant proposes to transfer two transient units and licenses. The applicant proposes to establish two, two-bedroom units at the receiver site, each with an open kitchen/living area for a total of three rooms per unit.
- The receiver site's density is 2.2 units. The applicant proposes to utilize two transient units, and maintain the rights to the existing non-transient unit, along with an affordable rate, and a market rate BPAS unit they received in the Year 8 BPAS cycle.
- In the Year 8 BPAS application the receiver site had plans to construct the rear unit with one affordable unit on one floor and one market rate unit on the other. Their plans have now changed to construct one single family unit in the rear with the transient license and unit from the sender site.
- Should the current application be approved, there would be five (5) units associated with the property in excess of the maximum permitted density for the site (2.2). It is noted that the applicant is not proposing to use either of the BPAS units approved previously in connection with this site, or the current non transient unit.

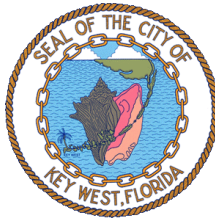


	Existing	Proposed
Density	2.2 units	
Non-Transient Units	1	0
Transient Units	0	2 units built out and 3 additional units
Rooms, Excluding Bathrooms	3	Unit 1: 3 Unit 2: 3 Total: 6

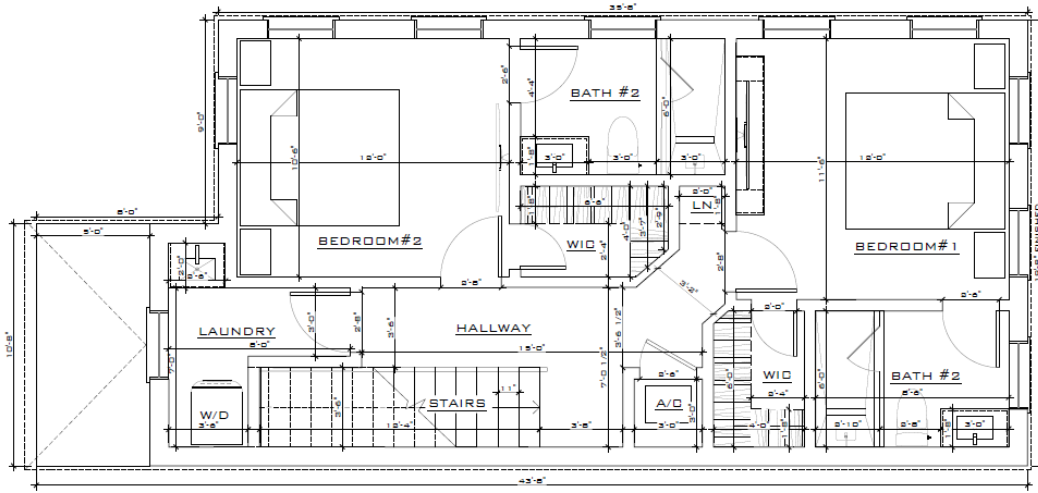
Receiver site floor plan

First Floor (Applicant revised after DRC to remove a Den):



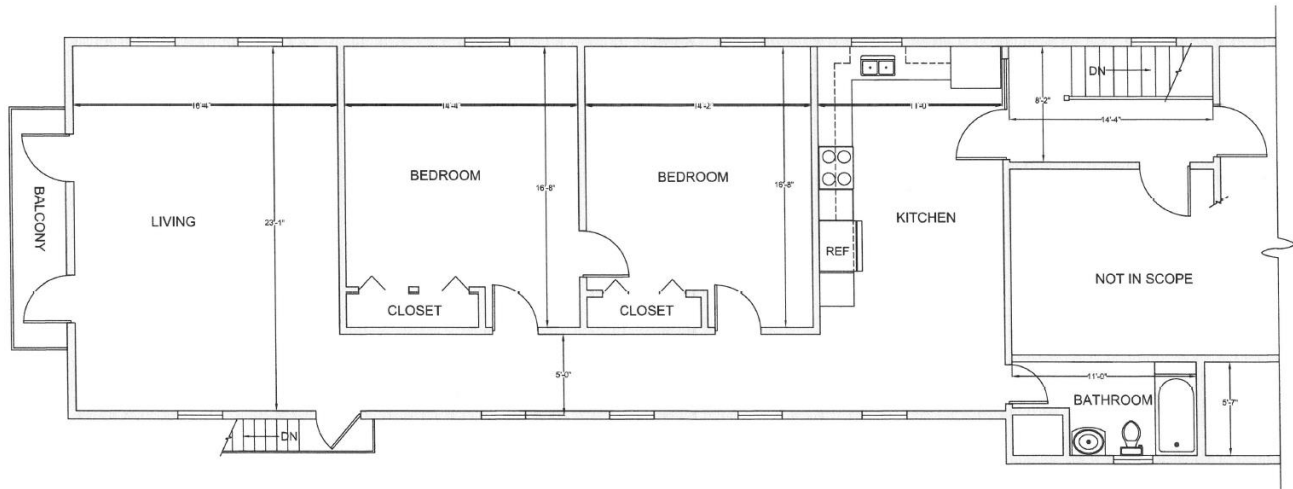


Second Floor:



**PROPOSED 2ND FLOOR PLAN**  
SCALE: 1/4" = 1'-0"

Front Unit Second Floor:







**Development Review Committee:**

This item was presented to the DRC on November 30<sup>th</sup>. Committee members raised the following concerns:

**Tree:**

Coordinate with tree over open permits and the planting and removal of trees

**Utilities:**

The applicant was happy to accommodate all requests. Planning pointed out the following code interferences.

To protect the existing wall/fence when parking, please install bollard or equal.

**Stormwater Management:**

Swale adjacent to existing tree may be adjusted to prevent impact to tree roots.

**Sanitary Sewer:**

Please coordinate sanitary sewer lateral location and connection to the public sewer system through the Utilities Department.

**HARC:**

HARC must review all final documents.

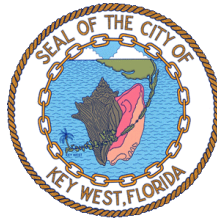
The applicant was happy to accommodate all requests.

**Staff Analysis – Code Criteria:**

***Sec. 122-1336.***

*The purpose of this division is to provide for the transfer of existing transient units and transient licenses in order to reduce noncomplying density, structures and uses; remove legal nonconforming transient uses from zoning districts that now prohibit them; encourage permanent residential housing by relocating transient licenses; provide for the conversion of transient units to single-family dwellings by the transfer of units; allow for redevelopment without increasing the population requiring evacuation during emergencies or increasing other public services; protect environmentally sensitive lands; and encourage redevelopment under the existing rate of growth ordinance ("ROGO") that limits the allowable number of residential and transient units. This division is only for the purpose of the transfer of transient units and shall not be construed to create new residential or transient units.*

The subject proposal would reduce noncomplying uses by transferring a transient license and unit from a district that prohibits transient use to a district that permits transient use. However, the subject site would increase the population required for evacuation inconsistent with Sec. 122-1338 of the City Code. Specifically,



the number of bedrooms is not proposed to decrease at the Sender Site while the Receiver Site will result in an increase in the number of bedrooms and units.

**Sec. 122-1338.**

Staff has reviewed section 122-1338 and found the project in compliance with all applicable subsections except:

*4.) The transferred units shall not operate to increase density of the receiver site above the maximum allowed density.*

The property at 610 Duval currently holds 1 non transient unit along with 2 BPAS units ( 1 affordable, 1 market rate). At this time, the applicant is proposing to abandon the development of the three existing units. They are, instead, seeking to transfer in 2 transient units and licenses. If approved as proposed, the Receiver site would contain five (5) total units. This density is in excess of the maximum permitted density of 2.2 units.

*5.) Unless the planning board determines that special conditions exist at the receiver site that warrant otherwise, the transient unit may not include more than two rooms, excluding bathrooms, and excluding porches and decks that are clearly not enclosed or habitable and;*

The newly constructed transient unit created at 610 Duval St will have more than two rooms. The applicant states that the unit is only two bedrooms and, therefore, code compliant. However, the code explicitly limits the number of *rooms*, not bedrooms.

*6.) At the sender site, any remaining transient units that are remodeled or combined may not increase the existing number of rooms, excluding bathrooms. All such units shall not have "lockout" capacity.*

The sender site interior is being remodeled such that the remaining two units will go from one room each to 5 rooms in the front unit and 3 in the back unit.

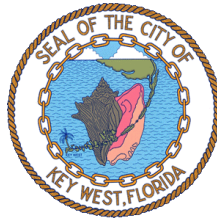
**Section 122-660**

The applicant's proposal would result in the property exceeding allowed maximum density of 12 units per acre. The receiver site only has a density of 2.2 units; the proposed retention of an entitlement to three additional units would exceed density allowance for the HRCC-1 zoning district.

Staff recommends that the Planning Board condition any approval on the return of the existing BPAS units to the BPAS pool and of the existing market rate residential unit to the Beneficial Use Pool to bring the site into compliance with maximum density limits. The return of the units will allow for the development of an affordable and market rate housing unit – both of which are desperately needed to meet ongoing housing needs.

**Recommendation:**

The proposed transfer of two transient units and licenses from 1004 Eaton St is subject to Section 122-1338: Transfer of transient units. Based on the criteria of Section 122-1338 outlined above, the Planning Department recommends the request for a transfer of one transient license be DENIED as proposed as the application is



inconsistent with section 122-338 (4, 5 & 6), which prohibits an increase in the number of rooms associated with the transfer of a transient rental license. If Planning Board elects to approve this transfer, Planning staff respectfully recommend that the Planning Board require the following conditions:

**Conditions:**

1. The applicant shall comply with the requirements of Section 122-1371: Transient living accommodations in residential dwellings; regulations.
2. The applicant shall surrender the two BPAS units previously allocated to the property through Planning Board Resolution 2021-20 back to the city as well as the rights to the existing non transient unit to the City's Beneficial Use Pool prior to the issuance of COs or licenses for units at 610 Duval, subject to review and approval by the Planning Director.
3. The receiver site shall comply with the attached floor plans signed and sealed by Serge Mashtakov on December 5<sup>th</sup>, 2023